
By: **Delegates Menes, Conroy, and Owings**
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Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Homeowner's Insurance - Premium Increases - Notice**

3 FOR the purpose of requiring insurers of homeowner's insurance policies to provide
4 written notice to an insured regarding policy premium increases, policy
5 reductions, policy cancellations, and nonrenewals under certain circumstances;
6 requiring the notice to be on a certain form; requiring the notice to include
7 certain information; requiring the reason for an insurer proposing to take an
8 action to be sufficiently clear and specific; authorizing an insured to protest an
9 action of an insurer under certain circumstances; requiring the Insurance
10 Commissioner to take certain actions regarding protests under certain
11 circumstances; authorizing a stay of an insurer's proposed action under certain
12 circumstances; establishing that a dismissal of a protest or disallowance of a
13 premium increase is a final determination under certain circumstances;
14 requiring the Commissioner to make certain determinations under certain
15 circumstances; authorizing certain persons to request a hearing under certain
16 circumstances; providing the hearing format; requiring the Commissioner to
17 issue a certain order under certain circumstances; authorizing the
18 Commissioner to delegate certain powers to certain individuals under certain
19 circumstances; providing for the return of disallowed premiums under certain
20 circumstances; providing for the payment of interest on disallowed premiums
21 under certain circumstances; authorizing a party to appeal a certain decision
22 under certain circumstances; defining a certain term; providing for the
23 application of this Act; and generally relating to homeowner's insurance.

24 BY repealing and reenacting, with amendments,
25 Article - Insurance
26 Section 27-601(a), 27-602(b), 27-604, and 27-609(a)
27 Annotated Code of Maryland

1 (2002 Replacement Volume and 2003 Supplement)

2 BY adding to

3 Article - Insurance

4 Section 27-610

5 Annotated Code of Maryland

6 (2002 Replacement Volume and 2003 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Insurance**

10 27-601.

11 (a) This section does not apply to policies of:

12 (1) life insurance;

13 (2) health insurance;

14 (3) motor vehicle liability insurance issued to a resident of a household
15 in the State as set forth in § 27-605 of this subtitle; [or]

16 (4) surety insurance[.]; OR

17 (5) HOMEOWNER'S INSURANCE ISSUED IN THE STATE AS SET FORTH IN
18 § 27-610 OF THIS SUBTITLE.

19 27-602.

20 (b) (1) This section applies to the Maryland Property Insurance Availability
21 Act and to any other plans that may be instituted to ensure availability of insurance,
22 unless expressly excluded.

23 (2) This section does not apply to policies of:

24 (i) life insurance;

25 (ii) health insurance;

26 (iii) motor vehicle liability insurance; [or]

27 (iv) surety insurance[.]; OR

28 (V) HOMEOWNER'S INSURANCE ISSUED IN THE STATE AS SET
29 FORTH IN § 27-610 OF THIS SUBTITLE.

1 27-604.

2 (a) This section does not apply to:

3 (1) life insurance;

4 (2) health insurance;

5 (3) motor vehicle liability insurance issued to a resident of a household
6 in the State as set forth in § 27-605 of this subtitle;

7 (4) surety insurance;

8 (5) insurance written or issued by the Maryland Automobile Insurance
9 Fund; [or]

10 (6) an insurer that satisfies the Commissioner that it cannot reasonably
11 comply with the notice requirement in connection with certain risks or lines of
12 business; OR

13 (7) HOMEOWNER'S INSURANCE ISSUED IN THE STATE AS SET FORTH IN
14 § 27-610 OF THIS SUBTITLE.

15 (b) Whenever an insurer intends to increase a premium for a particular policy
16 written in the State by 20% or more, the insurer shall notify the insured and
17 insurance producer of the increase.

18 (c) The notice shall be sent by first-class mail to the insured and insurance
19 producer at least 45 days before the effective date of the proposed premium increase.
20 27-609.

21 (a) (1) If an insurer fails to comply with any provision of § 27-601, § 27-602,
22 § 27-603, § 27-604, § 27-605, [or] § 27-607, OR § 27-610 of this subtitle, the insurer
23 is liable to the applicant for the coverage that was requested, or that would have
24 become effective except for the failure to comply with these provisions, unless the
25 person seeking coverage:

26 (i) no longer wishes the coverage;

27 (ii) has obtained other substantially equivalent coverage; or

28 (iii) fails to tender or pay the premium after reasonable demand for
29 the premium has been made.

30 (2) The liability of an insurer under paragraph (1) of this subsection is in
31 addition to any other penalties applicable by law.

1 27-610.

2 (A) (1) IN THIS SECTION, "INCREASE IN PREMIUM" AND "PREMIUM
 3 INCREASE" INCLUDE AN INCREASE IN THE PREMIUM FOR ANY COVERAGE ON A
 4 POLICY DUE TO:

5 (I) A SURCHARGE;

6 (II) RETIERING OR OTHER RECLASSIFICATION OF AN INSURED; OR

7 (III) REMOVAL OR REDUCTION OF A DISCOUNT.

8 (2) ~~EXCEPT AS PROVIDED IN THIS SECTION IN ACCORDANCE WITH THIS~~
 9 ARTICLE, WITH RESPECT TO A POLICY OF HOMEOWNER'S INSURANCE ISSUED IN THE
 10 STATE, AN INSURER MAY NOT:

11 (I) INCREASE A PREMIUM FOR ANY COVERAGE ON THE POLICY;

12 (II) REDUCE COVERAGE UNDER THE POLICY;

13 (III) CANCEL THE POLICY FOR A REASON OTHER THAN
 14 NONPAYMENT OF PREMIUM; OR

15 (IV) FAIL TO RENEW THE POLICY.

16 ~~(2)~~ (3) NOTWITHSTANDING PARAGRAPH ~~(4)~~ (2) OF THIS SUBSECTION,
 17 THE REQUIREMENTS OF THIS SECTION DO NOT APPLY IF:

18 (I) THE PREMIUM INCREASE DESCRIBED IN PARAGRAPH ~~(4)~~ (2)(I)
 19 OF THIS SUBSECTION IS PART OF A GENERAL INCREASE IN PREMIUMS APPROVED BY
 20 THE COMMISSIONER;

21 (II) THE REDUCTION IN COVERAGE DESCRIBED IN PARAGRAPH ~~(4)~~
 22 (2)(II) OF THIS SUBSECTION IS PART OF A GENERAL REDUCTION IN COVERAGE
 23 APPROVED BY THE COMMISSIONER; OR

24 (III) THE FAILURE TO RENEW THE POLICY TAKES PLACE UNDER A
 25 PLAN OF WITHDRAWAL THAT:

26 1. IS APPROVED BY THE COMMISSIONER UNDER § 27-603 OF
 27 THIS SUBTITLE; AND

28 2. PROVIDES THAT EACH INSURED AFFECTED BY THE PLAN
 29 OF WITHDRAWAL SHALL BE SENT BY CERTIFICATE OF MAILING AT LEAST 45 DAYS
 30 BEFORE THE NONRENEWAL OF THE POLICY A WRITTEN NOTICE THAT STATES THE
 31 DATE THAT THE POLICY WILL BE NONRENEWED AND THAT THE NONRENEWAL IS
 32 THE RESULT OF THE WITHDRAWAL OF THE INSURER FROM THE MARKET.

33 (B) AT LEAST 45 DAYS PRIOR TO THE EXPIRATION OF A POLICY OF
 34 HOMEOWNER'S INSURANCE, AN INSURER THAT INTENDS TO TAKE AN ACTION

1 SUBJECT TO THIS SECTION MUST SEND WRITTEN NOTICE OF ITS PROPOSED ACTION
2 TO THE INSURED AT THE LAST KNOWN ADDRESS OF THE INSURED:

3 (1) FOR NOTICE OF CANCELLATION OR NONRENEWAL, BY CERTIFIED
4 MAIL; AND

5 (2) FOR ALL OTHER NOTICES OF ACTIONS SUBJECT TO THIS SECTION,
6 BY CERTIFICATE OF MAILING.

7 (C) THE NOTICE MUST BE IN TRIPPLICATE AND ON A FORM APPROVED BY THE
8 COMMISSIONER.

9 (D) THE NOTICE MUST STATE IN CLEAR AND SPECIFIC TERMS:

10 (1) FOR A PREMIUM INCREASE:

11 (I) THE AMOUNT OF THE PREMIUM INCREASE IN COMPARISON TO
12 THE PREMIUM CHARGED IN THE PREVIOUS YEAR;

13 (II) THE REASON FOR THE INCREASE, INCLUDING BUT NOT
14 LIMITED TO, THE DELETION OF A LOSS-FREE CREDIT, THE APPLICATION OF A
15 CLAIM-RELATED SURCHARGE, OR ANY OTHER REASON RELATED TO A CLAIM OR
16 POLICYHOLDER INQUIRY; AND

17 (III) THE TELEPHONE NUMBER OF THE INSURER'S
18 REPRESENTATIVES WHO HANDLE CONSUMER INQUIRIES OR COMPLAINTS;

19 (2) FOR A REDUCTION IN COVERAGE:

20 (I) THE TYPE OF COVERAGE REDUCED; AND

21 (II) THE EXTENT OF THE REDUCTION;

22 (3) FOR NONRENEWAL OR CANCELLATION OF A POLICY:

23 (I) THE REASON OR REASONS FOR THE NONRENEWAL OR
24 CANCELLATION; AND

25 (II) THE TELEPHONE NUMBER OF THE INSURER'S
26 REPRESENTATIVES WHO HANDLE CONSUMER INQUIRIES OR COMPLAINTS;

27 (4) THE RIGHT OF THE INSURED TO PROTEST THE PROPOSED ACTION OF
28 THE INSURER AND, EXCEPT IN THE CASE OF A PREMIUM INCREASE THAT IS
29 CONSISTENT WITH THE INSURER'S RATE FILING WITH THE COMMISSIONER AND
30 AUTHORIZED UNDER THE APPLICABLE PROVISIONS OF TITLE 11 OF THIS ARTICLE,
31 REQUEST A HEARING BEFORE THE COMMISSIONER ON THE PROPOSED ACTION BY
32 SIGNING TWO COPIES OF THE NOTICE AND SENDING THEM TO THE COMMISSIONER
33 WITHIN 30 DAYS AFTER THE MAILING DATE OF THE NOTICE;

34 (5) THAT IF A PROTEST IS FILED BY THE INSURED, THE INSURER MUST
35 MAINTAIN THE CURRENT INSURANCE IN EFFECT UNTIL A FINAL DETERMINATION IS

1 MADE BY THE COMMISSIONER, SUBJECT TO THE PAYMENT OF ANY AUTHORIZED
2 PREMIUM DUE OR BECOMING DUE BEFORE THE DETERMINATION;

3 (6) THE AUTHORITY OF THE COMMISSIONER TO AWARD REASONABLE
4 ATTORNEY FEES TO THE INSURED FOR REPRESENTATION AT A HEARING IF THE
5 COMMISSIONER FINDS THE PROPOSED ACTION OF THE INSURER TO BE
6 UNJUSTIFIED; AND

7 (7) THAT THE INSURED MAY BE ABLE TO OBTAIN COVERAGE FROM THE
8 JOINT INSURANCE ASSOCIATION AND THE CURRENT ADDRESS AND TELEPHONE
9 NUMBER OF THE JOINT INSURANCE ASSOCIATION.

10 (E) THE INSURER'S STATEMENT OF ACTUAL REASON FOR PROPOSING TO
11 TAKE AN ACTION SUBJECT TO THIS SECTION MUST BE SUFFICIENTLY CLEAR AND
12 SPECIFIC SO THAT AN INDIVIDUAL OF AVERAGE INTELLIGENCE CAN IDENTIFY THE
13 BASIS FOR THE INSURER'S DECISION WITHOUT MAKING FURTHER INQUIRY.

14 (F) AT LEAST 10 DAYS BEFORE THE DATE AN INSURER PROPOSES TO CANCEL
15 A POLICY FOR NONPAYMENT OF PREMIUM, THE INSURER SHALL SEND TO THE
16 INSURED, BY CERTIFICATE OF MAILING, A WRITTEN NOTICE OF INTENTION TO
17 CANCEL FOR NONPAYMENT OF PREMIUM.

18 (G) (1) THIS SUBSECTION DOES NOT APPLY TO AN ACTION OF AN INSURER
19 TAKEN UNDER SUBSECTION (F) OF THIS SECTION.

20 (2) AN INSURED MAY PROTEST A PROPOSED ACTION OF THE INSURER
21 UNDER THIS SECTION BY SIGNING TWO COPIES OF THE NOTICE AND SENDING THEM
22 TO THE COMMISSIONER WITHIN 30 DAYS AFTER THE MAILING DATE OF THE NOTICE.

23 (3) ON RECEIPT OF A PROTEST, THE COMMISSIONER SHALL NOTIFY THE
24 INSURER OF THE FILING OF THE PROTEST.

25 (4) EXCEPT FOR A PREMIUM INCREASE OF 15% OR LESS FOR THE ENTIRE
26 POLICY, A PROTEST FILED WITH THE COMMISSIONER STAYS THE PROPOSED ACTION
27 OF THE INSURER PENDING A FINAL DETERMINATION BY THE COMMISSIONER.

28 (5) (I) EXCEPT FOR A PREMIUM INCREASE OF 15% OR LESS FOR THE
29 ENTIRE POLICY, THE INSURER SHALL MAINTAIN IN EFFECT THE SAME COVERAGE
30 AND PREMIUM THAT WERE IN EFFECT ON THE DAY THE NOTICE OF PROPOSED
31 ACTION WAS SENT TO THE INSURED UNTIL A FINAL DETERMINATION IS MADE,
32 SUBJECT TO THE PAYMENT OF ANY AUTHORIZED PREMIUM DUE OR BECOMING DUE
33 BEFORE THE DETERMINATION.

34 (II) IN THE CASE OF A PREMIUM INCREASE, A DISMISSAL OF THE
35 PROTEST OR DISALLOWANCE OF THE PREMIUM INCREASE IS DEEMED TO BE A FINAL
36 DETERMINATION OF THE COMMISSIONER 20 DAYS AFTER THE MAILING DATE OF THE
37 COMMISSIONER'S NOTICE OF ACTION.

38 (H) (1) BASED ON THE INFORMATION CONTAINED IN THE NOTICE, THE
39 COMMISSIONER:

1 (I) SHALL DETERMINE WHETHER THE PROTEST BY THE INSURED
2 HAS MERIT; AND

3 (II) EITHER SHALL DISMISS THE PROTEST OR DISALLOW THE
4 PROPOSED ACTION OF THE INSURER.

5 (2) THE COMMISSIONER SHALL NOTIFY THE INSURER AND THE
6 INSURED OF THE ACTION OF THE COMMISSIONER PROMPTLY IN WRITING.

7 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, WITHIN 30 DAYS
8 AFTER THE MAILING DATE OF THE COMMISSIONER'S NOTICE OF ACTION, THE
9 AGGRIEVED PARTY MAY REQUEST A HEARING.

10 (4) EXCEPT IN THE CASE OF A PREMIUM INCREASE OF 15% OR LESS FOR
11 THE ENTIRE POLICY, THE COMMISSIONER SHALL:

12 (I) HOLD A HEARING WITHIN A REASONABLE TIME AFTER THE
13 REQUEST FOR A HEARING; AND

14 (II) GIVE WRITTEN NOTICE OF THE TIME AND PLACE OF THE
15 HEARING AT LEAST 10 DAYS BEFORE THE HEARING.

16 (5) A HEARING HELD UNDER THIS SUBSECTION SHALL BE CONDUCTED
17 IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

18 (6) AT THE HEARING THE INSURER HAS THE BURDEN OF PROVING ITS
19 PROPOSED ACTION TO BE JUSTIFIED AND, IN DOING SO, MAY RELY ONLY ON THE
20 REASONS SET FORTH IN ITS NOTICE TO THE INSURED.

21 (I) (1) THE COMMISSIONER SHALL ISSUE AN ORDER WITHIN 30 DAYS AFTER
22 THE CONCLUSION OF THE HEARING.

23 (2) IF THE COMMISSIONER FINDS THE PROPOSED ACTION OF THE
24 INSURER TO BE JUSTIFIED, THE COMMISSIONER SHALL:

25 (I) DISMISS THE PROTEST; AND

26 (II) ALLOW THE PROPOSED ACTION TO BE TAKEN ON THE LATER
27 OF:

28 1. ITS PROPOSED EFFECTIVE DATE; AND

29 2. 30 DAYS AFTER THE DATE OF THE DETERMINATION.

30 (3) IF THE COMMISSIONER FINDS THE PROPOSED ACTION TO BE
31 UNJUSTIFIED, THE COMMISSIONER:

32 (I) SHALL DISALLOW THE ACTION; AND

1 (II) MAY ORDER THE INSURER TO PAY REASONABLE ATTORNEY
2 FEES INCURRED BY THE INSURED FOR REPRESENTATION AT THE HEARING AS THE
3 COMMISSIONER CONSIDERS APPROPRIATE.

4 (J) THE COMMISSIONER MAY DELEGATE THE POWERS AND DUTIES OF THE
5 COMMISSIONER UNDER THIS SECTION TO ONE OR MORE EMPLOYEES OR HEARING
6 EXAMINERS.

7 (K) (1) IF THE COMMISSIONER DISALLOWS A PREMIUM INCREASE OF 15%
8 OR LESS FOR THE ENTIRE POLICY, THE INSURER, WITHIN 30 DAYS AFTER THE
9 DISALLOWANCE, SHALL:

10 (I) RETURN TO THE INSURED ALL DISALLOWED PREMIUM
11 RECEIVED FROM THE INSURED; AND

12 (II) PAY TO THE INSURED INTEREST ON THE DISALLOWED
13 PREMIUM RECEIVED FROM THE INSURED CALCULATED AT 10% PER ANNUM FROM
14 THE DATE THE DISALLOWED PREMIUM WAS RECEIVED TO THE DATE THE
15 DISALLOWED PREMIUM WAS RETURNED.

16 (2) IF AN INSURER FAILS TO RETURN ANY DISALLOWED PREMIUM OR
17 FAILS TO PAY INTEREST TO AN INSURED IN VIOLATION OF PARAGRAPH (1) OF THIS
18 SUBSECTION, THE INSURER IS IN VIOLATION OF THIS ARTICLE AND SUBJECT TO THE
19 PENALTIES UNDER § 4-113(D) OF THIS ARTICLE.

20 (L) A PARTY TO A PROCEEDING UNDER THIS SECTION MAY APPEAL THE
21 DECISION OF THE COMMISSIONER IN ACCORDANCE WITH § 2-215 OF THIS ARTICLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
23 all personal lines property and casualty insurance policies and contracts issued,
24 delivered, or renewed on or after October 1, 2004.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2004.